IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
MISC. PETITION NO.12 OF 2007.

Ashesh Pravinchandra Goradia ..Petitioner

versus

Master Chintan Ashesh Goradia ..Respondent.

Mr.K.T.Kurkeja i/b. Kukreja & Co. for the Petitioner

Coram : S.R.Sathe, JJ.
Dated : 26th June, 2007

P.C.

1. Heard learned advocate for the petitioner. Perused the petition.

2. This is an application filed by the petitioner the father-guardian of minor Chintan, aged about 9 years seeking permission of this Court under Section 8(2) of the Hindu Minority and Guardianship Act to sell the property i.e. Flat No.15A, New Aakash Ganga Co-op. Housing Society, Bhulabhai Desai Road, Mumbai, standing in the name of the minor Chintan Ashish Goradia. It is stated in the petition that the said flat is received by the minor Chintan by way of a registered gift from his grand parents. Presently, the grand parents, the present petitioner as well as the minor, all are residing jointly in the above flat. According to

them the present flat is quite spacious flat and such big accommodation is not needed by them. It is also mentioned in the application that at present the petitioner has received a lucrative offer for the said flat which is to the tune of Rs.3,45,00,000/-, and if, they sell the said flat at this stage and purchase a new flat either in the town or in suburb with all the amenities it will be definitely for the price which will be much less then the price that is being fetched for the present flat. The petitioner's advocate therefore, submits that if the said balance amount that will be left is invested, it will give good return and there would be increase in the capital.

3. In order to find out as to whether in fact the grand parents are presently residing jointly and they are also of the same desire, they were directed to remain present in the court. Accordingly, both of them are present in the Court and they submit that they also wish that the petitioner should sell this flat at this stage and purchase some new flat as mentioned above and invest the balance amount in the name of the minor.

4. In order to find out whether the price that is being fetched is proper and reasonable, the petitioner was also directed to give one advertisement in the news paper. However, the petitioner has not received any better offer than this and accordingly affidavit is filed by the petitioner along with the copy of the public advertisement given in the newspaper. The offer received by the petitioner, (copy of the same) is also filed.

5. The petitioner got the property in question valued through an approved valuer and report of the approved valuer has been produced on record. The valuer has also reported that the value of the flat in question is 3 Crores 34 lakhs.

6. Having regard to the above facts and circumstances, I am of the view that it is in the interest of minor to sell the flat in question at this stage. Such transaction is in the interest of the minor and for the benefit of the estate. Hence, I pass the following order:

ORDER

1. The petitioner, being father-guardian of the minor Chintan Asheesh Goradia is allowed to sell the said flat and the shares in respect of the said flat to Mr. Bharat Pratap Vora for any member for his family or any third party nominated by him for Rs.3,45,00,000/-. (Rupees Three Crores Forty-five lacs Only)

2. The petitioner shall open a separate account in the name of the minor through father-guardian and deposit all the sale proceeds of the said flat in the said account. As the consideration is to be received in instalments mentioned in MOU, the said amounts be received by cheque/draft drawn in favour of minor or the purchaser can directly deposit the said amount in the account of the minor. The amounts so deposited shall not be withdrawn by the father-guardian, but the same be kept in fixed deposit in the name of minor through father-guadian for initial period of one year and the said Fixed deposits be renewed from time to time till the minor attains majority.

3. As the new flat is to be purchased out of

these sale proceeds in the name of minor, the father-guardian should place the details about the proposed purchases of the flat before the Court and seek permission of the Court to utilize the money received out of this sale proceeds for the purchase of the new flat for the minor. In any event, the new flat must be purchased within a period of 15 months from today.

4. The petitioner has already received the sum of Rs.51,000/- as earnest money. The said amount to be utilized by the petitioner for purchasing one mediclaim policy and one other suitable life insurance policy for the minor children which policy would be helpful to meet the educational expenses of the minor. Such policy should not be of the amount less than Rs.10,00,000/-. (Rupees Ten Lacs.) The petitioner to report the compliance of the above mentioned directions to the court from time to time.

5. The petitioner, father-guardian of the minor Chintan shall not raise any loan against the Fixed Deposits or insurance policies that will be taken out in the name of the minor, or even against the new flat that will be purchased in the name of the

minor.

6. Liberty granted to move the court in case circumstances require any modification in the period of Fixed Deposit.

Petition disposed of accordingly.

(S.R.Sathe, J.)